

**EIGHTY-SECOND DAY**  
**(Tuesday, May 27, 1975)**

The Senate met at 10:00 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Harce, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Moore.

A quorum was announced present.

The Reverend E. M. Franklin, St. James Baptist Church, Austin, Texas, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**LEAVE OF ABSENCE**

Senator Moore was granted leave of absence for today on account of a death in the family on motion of Senator McKnight.

**REPORTS OF STANDING COMMITTEES**

Senator Gammage, Vice-Chairman, submitted the following report for the Committee on Human Resources:

**H.B. 247**

Senator Brooks submitted the following report for the Committee on Human Resources:

**H.B. 1667 (Amended)**

**SENATE BILL ON FIRST READING**

The following local bill was introduced, read first time and referred to the Committee indicated:

By Senator Moore:

**S.B. 1125**, A bill to be entitled An Act relating to the lease of any hospital belonging to Walker County; and declaring an emergency.

To Committee on Intergovernmental Relations.

**MESSAGE FROM THE HOUSE**

Hall of the House of Representatives  
Austin, Texas, May 27, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

**H.C.R. 151:** Authorizing the Enrolling Clerk of the House to make corrections in **H.B. 46**.

**H.C.R. 152:** Recalling **S.B. 86** from the Governor for corrections.

**H.B. 405,** A bill to be entitled An Act relating to certain fines for speeding violations; amending Section 144, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d), Vernon's Texas Civil Statutes); and declaring an emergency.

**H.B. 1308,** A bill to be entitled An Act relating to the administration of certain federally established day care programs; and declaring an emergency.

**H.B. 1489,** A bill to be entitled An Act amending the Texas Shrimp Conservation Act, as amended (Article 4075b, Vernon's Texas Civil Statutes), to provide new definitions; to provide a more flexible closed gulf shrimping season; to establish a contiguous zone for shrimp management; to provide for confiscation of the cargo of shrimp; and declaring an emergency.

**H.J.R. 99,** A joint resolution proposing a constitutional amendment of Section 49-d-1 of Article III of the Texas Constitution to increase from \$100 million to \$200 million the additional aggregate principal amount of Texas Water Development Bonds which may be issued and outstanding by the Texas Water Development Board for water quality enhancement purposes.

**H.B. 614,** A bill to be entitled An Act prohibiting the purchase of imported dairy products by state agencies and subdivisions; and declaring an emergency.

**H.B. 1481,** A bill to be entitled An Act relating to the construction, operation, and maintenance of a regional residential facility in El Paso for providing residential diagnosis and cumulative care, supervision, treatment, and training for juvenile offenders in the custody of the Texas Youth Council; and declaring an emergency.

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

#### HOUSE CONCURRENT RESOLUTION 152 ON SECOND READING

The President laid before the Senate the following resolution:

**H.C.R. 152,** Recalling **S.B. 86** from the Governor for certain corrections.

The resolution was read.

On motion of Senator Gammage and by unanimous consent, the resolution was considered immediately and was adopted.

(Senator Traeger in the Chair)

**SENATE BILL 937 WITH HOUSE AMENDMENT**

Senator Ogg called **S.B. 937** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**COMMITTEE AMENDMENT NO. 1**

Amend **S.B. 937**, page 1, by striking the words on page 9, "one million two hundred thousand (1,200,000)" and substituting in lieu thereof the words "eight hundred thousand (800,000)";

And on page 2 by deleting the period after the word "opened" on line 1, and adding thereafter the words "on the day and time appointed";

And by adding on line 9, after the word "opening" the following:

"by the County Auditor as part of the records of his office, and shall be subject to inspection by anyone desiring to see them."

The House amendment was read.

Senator Ogg moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Moore.

**SENATE BILL 938 WITH HOUSE AMENDMENTS**

Senator Ogg called **S.B. 938** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**COMMITTEE AMENDMENT NO. 1**

Amend **S.B. 938** by striking all below the enacting clause and substituting in lieu thereof the following:

Section 1. Sections 9 and 10, Chapter 17, Special Laws, Acts of the 33rd Legislature, Regular Session, 1913, as amended, are amended to read as follows:

"Sec. 9. The Commissioners Court of Harris County shall make necessary purchases and enter into such contracts as are necessary to carry out the purposes of the Harris County Road Law. Where the total expenditure for any such purchase or any such contract shall exceed Two Thousand Dollars (\$2,000) [~~One Thousand Dollars (\$1,000)~~], advertisements for bids shall be made by the County Purchasing Agent [~~Auditor~~] once each week for two (2) successive weeks in a daily newspaper published and circulated in Harris County. Before such advertisement, specifications shall be prepared and filed with the County Purchasing Agent [~~Auditor~~], who shall prescribe the

time and place of opening bids. All bids shall be filed in duplicate and shall be accompanied by a certified check, or a bank cashier's check for five per cent (5%) of the amount of the bid, payable to Harris County, conditioned that the successful bidder will supply the materials or equipment or perform the work, or, if determination is so made by the Commissioners Court and such determination incorporated in the advertisement for bids, conditioned that the successful bidder will enter into a bond and contract for the supplying of the materials or equipment or the performance of the work. The bond, if one be required by the Commissioners Court, shall be in a sum equal to the amount of money to be paid by the County under the contract, and shall be executed by a surety company authorized to do business in Texas and having an agent in Harris County, and having a capital stock of One Hundred Thousand Dollars (\$100,000) or more. All such contracts shall be awarded in open Court by the Commissioners Court, and shall be reduced to writing and with the bond filed in the office of the County Clerk. All bids shall remain with the County Auditor as a part of the record of his office. The County Judge shall issue and file with the County Auditor in such form as may be prescribed by the Auditor a requisition covering the contract or purchase before it becomes effective as a contract.

"The making of all such purchases and the letting of all of such contracts shall be subject to all of the provisions of the General Laws applying to Harris County governing the budget, accounting, approval and countersignature of warrants, depository laws and such reasonable regulations as may be made under authority of law, except as herein otherwise specifically provided.

"Sec. 10. Where the amount to be expended shall be Two Thousand Dollars (\$2,000) [~~One Thousand Dollars (\$1,000)~~] or less, it shall not be necessary to advertise for sealed bids, but sealed proposals shall be asked from as many as three (3) persons, firms or corporations, or as many more as offer to bid, based upon written specifications filed with the County Purchasing Agent [~~Auditor~~] at least forty-eight (48) hours before the time of opening said bids. The purchase or contract shall be awarded to the lowest and best bidder by the Court. A requisition in such form as may be prescribed by the County Auditor shall be issued by the County Judge to the contractor and a copy thereof shall be filed with the County Auditor before the contract is executed, or the material or supplies or any portion thereof are furnished.

"Where the amount involved in the purchase or the contract is Five Hundred Dollars (\$500) or less, the County Judge may issue an emergency requisition in such form as shall be prescribed by the County Auditor, setting forth a list or description of the materials or supplies required and the price, and the reason for the existing emergency, and such supplies or materials may be furnished or the contract performed without such advertising for bids or filing of proposals.

"In case of any public calamity, where it becomes necessary to appropriate money to preserve the property of the County or to relieve the necessity of its citizens to such an extent as may be otherwise authorized by law, upon order of the Court specifically setting forth in the minutes its reasons, the provisions for the taking of bids and advertisements, or proposals may be waived.

"The provisions of this Law shall not apply to work performed by daily labor under the direction of the Commissioners Court, nor to contracts of employment otherwise authorized by law.

"Before any purchase order, or contract or requisition shall be placed into effect or become binding upon Harris County, it shall be submitted to the County Auditor for his approval and certification that funds are or will be available to meet the obligation so created when due. All requisitions, purchase orders or work orders under contract shall be issued in triplicate, one (1) copy to be delivered to the contractor, one (1) copy to be delivered to the County Auditor, and one (1) copy to remain on file with the Clerk of the Commissioners Court.

"Any requisition, purchase, or contract made without strict compliance with this Law shall be void, and no recovery may be had thereon in any Court.

"The Auditor shall make a complete inventory of all County property, keeping an account with the persons chargeable therewith or having the custody or control thereof. The Auditor may require such reports as he deems necessary to keep him informed of the location and condition of all County property and equipment. He shall periodically make reports of his findings to the Commissioners Court, and when deemed necessary, to the Grand Jury of Harris County. Upon the death, resignation or retirement of any officer or employee, the Auditor shall require an accounting of all property of every kind of the County or its political subdivisions of which he has custody, possession, control or supervision, and shall not approve the payment of any sums to such officer or employee or his estate until such accounting is made."

Section 2. The importance of this legislation to permit governmental units the additional powers and functions herein set forth creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be and the same is hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted.

#### COMMITTEE AMENDMENT NO. 2

Amend the caption of **S.B. 938** by striking all above the enacting clause and substituting in lieu thereof:

"Amending Sections 9 and 10, Chapter 17, Special Laws, Acts of the 33rd Legislature, Regular Session, 1913, as amended; and declaring an emergency."

The House amendments were read.

Senator Ogg moved to concur in House amendments.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Ogg, Patman, Santicsteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Moore.

#### SENATE BILL 1027 WITH HOUSE AMENDMENT

Senator Ogg called **S.B. 1027** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

#### COMMITTEE AMENDMENT NO. 1

Amend **S.B. 1027**, First Printing, by adding on page 7, line 21, the word "highest" between the word "the" and the figure "36".

The House amendment was read.

Senator Ogg moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Moore.

#### SENATE BILL 1074 WITH HOUSE AMENDMENT

Senator Ogg called **S.B. 1074** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

#### COMMITTEE AMENDMENT NO. 1

Amend Committee Amendment No. 1 to Senate Bill 1074 by rewriting the language of said Committee Amendment No. 1 to be added to Article 30.03 of the Code of Criminal Procedure to read as follows:

"Section 2. In the event a county judge or the regular judge of a county court of law created in a county is absent, or is for any cause disabled from presiding, a special judge, who is an attorney, may be appointed by the commissioner's court of the county."

The House amendment was read.

Senator Ogg moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Moore.

#### SENATE BILL 485 WITH HOUSE AMENDMENTS

Senator Farabee called **S.B. 485** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

#### CALENDAR AMENDMENT NO. 1

Amend Senate Bill 485 by striking all below the enacting clause and substituting in lieu thereof the following:

"Section 1. Subsection (h), Section 3A, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended by Acts 1973, 63rd Legislature, Regular Session, Chapter 31 (Article 6252-17, Vernon's Texas Civil Statutes) is amended to read as follows:

“(h) Notice of a meeting must be posted in a place readily accessible to the general public at all times for at least 72 hours preceding the scheduled time [day] of the meeting, except that notice of a meeting of a state board, commission, department, or officer having statewide jurisdiction, other than the Industrial Accident Board or the governing board of an institution of higher education, must be posted by the Secretary of State for at least seven days preceding the day of the meeting. [in] In case of emergency or urgent public necessity, which shall be expressed in the notice, it shall be sufficient if the notice is posted two hours before the meeting is convened. Provided further, that where a meeting has been called with notice thereof posted in accordance with this subsection, additional subjects may be added to the agenda for such meeting by posting a supplemental notice, in which the emergency or urgent public necessity requiring consideration of such additional subjects is expressed. In the event of an emergency meeting, or in the event any subject is added to the agenda in a supplemental notice posted for a meeting other than an emergency meeting, it shall be sufficient if the notice or supplemental notice is posted two hours before the meeting is convened, and the presiding officer or the member calling such emergency meeting or posting supplemental notice to the agenda for any other meeting shall, if request therefor containing all pertinent information has previously been filed at the headquarters of the governmental body, give notice by telephone or telegraph to any news media requesting such notice and consenting to pay any and all expenses incurred by the governmental body in providing such special notice. The notice provisions for legislative committee meetings shall be as provided by the rules of the house and senate.”

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

#### CALENDAR AMENDMENT NO. 2

Amend Senate Bill 485 by striking all above the enacting clause and substituting the following:

#### “A BILL TO BE ENTITLED

#### “AN ACT

“relating to notice of meetings of governmental bodies; amending Subsection (h), Section 3A, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon’s Texas Civil Statutes); and declaring an emergency.”

The House amendments were read.

Senator Farabee moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Moore.

**SENATE BILL 309 WITH HOUSE AMENDMENT**

Senator Snelson called **S.B. 309** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

**COMMITTEE AMENDMENT NO. 1**

Amend Section 1 of **S.B. 309** by adding the following:

"All criminal records and reports received from the Department of Public Safety shall be for the exclusive use of the Texas State Board of Medical Examiners and shall be privileged and shall not be released or otherwise disclosed to any person or agency by the Board except upon court order. Any applicant for licensure or any licensee whose license is subject to revocation, cancellation or suspension because of adverse information contained in such criminal records or reports shall be afforded the opportunity for a hearing before the Board prior to any action on the application for license or revocation, cancellation or suspension of license."

The House amendment was read.

Senator Snelson moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Moore.

**CONFERENCE COMMITTEE REPORT ON SENATE BILL 306 ADOPTED**

Senator Jones called from the President's table the Conference Committee Report on **S.B. 306**. (The Conference Committee Report having been filed with the Senate and read on May 26, 1975.)

On motion of Senator Jones, the Conference Committee Report was adopted by the following vote: Yeas 22, Nays 8.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Doggett, Farabee, Hance, Harris, Jones, Kothmann, Lombardino, McKinnon, McKnight, Meier, Mengden, Ogg, Santiesteban, Schwartz, Traeger and Williams.

Nays: Clower, Gammage, Harrington, Longoria, Mauzy, Patman, Sherman and Snelson.

Absent-excused: Moore.

**SENATE BILL 839 WITH HOUSE AMENDMENT**

Senator Mengden called **S.B. 839** from the President's table for consideration of the House amendment to the bill.



The Presiding Officer laid the bill and the House amendment before the Senate.

**CALENDAR AMENDMENT NO. 1**

Amend quoted Section 21.2041 in Section 2 of **S.B. 839**, First Printing, to read as follows:

"Sec. 21.2041. INSPECTION AND MONITORING OF EXCLUDED FACILITIES AND INCLUSION IN SYSTEM AT LATER TIME. (a) An action taken by the board under Section 21.204 of this code, excluding any person or persons from a regional or area-wide system because the person or persons will suffer undue financial hardship as a result of inclusion in the regional or area-wide system, shall be subject to a review at a later time determined by the board not to exceed three years from the date of exclusion.

"(b) The regional or area-wide system from which the person or persons are excluded shall be entitled during the time of the exclusion to inspect and monitor the operation of the excluded facilities during the exclusion period and the person or persons that are excluded shall pay to the regional or area-wide system a reasonable fee for the monitoring and inspection.

"(c) If a person or persons excluded from a regional or area-wide system fails to operate the excluded facilities in a manner that will comply with its permits, the permits shall be cancelled and the facilities shall become a part of the regional or area-wide system."

The House amendment was read.

Senator Mengden moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 839** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Mengden, Ogg, Traeger, Harris and Lombardino.

**SENATE BILL 571 WITH HOUSE AMENDMENTS**

Senator Ogg called **S.B. 571** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**COMMITTEE AMENDMENT NO. 1**

Amend **S.B. 571** by striking all below the enacting clause and substituting in lieu thereof the following:

Section 1. Section 186, Texas Election Code, as amended (Article 13.08, Vernon's Texas Election Code), is amended to read as follows:

"186. Conduct of the primary elections ~~(Expenses of primary)~~

"(a) The primary election held by a political party pursuant to Sections 180 and 181 of this code (Articles 13.02 and 13.03, Vernon's Texas Election Code), shall be

conducted through the party's state executive committee and county executive committees in accordance with the procedures detailed in this code.

"(b) In order for a candidate to have his name placed on the ballot for the general primary election, his application for a place on the ballot must be accompanied by a filing fee or a nominating petition in compliance with subsections (c) or (d) of this section.

"(c) The schedule of fees for either a full term or an unexpired term for the various offices is as follows:

"All statewide offices-----	\$1,000
"United States representative-----	1,000
"State senator-----	600
"State representative-----	300
"Member, state board of education-----	100
"Chief justice or associate justice, court of civil appeals-----	500
"District judge or judge of any court having status of a district court as classified in Section 61c of this code-----	500
"District attorney or criminal district attorney-----	500
"All county offices, as classified in Section 61c, except county surveyor and inspector of hides and animals-----	200
"County surveyor or inspector of hides and animals-----	100
"County commissioner, County of 200,000 or more inhabitants-----	500
County under 200,000 inhabitants-----	200
"Justice of the peace or constable, County of 200,000 or more inhabitants-----	400
County under 200,000 inhabitants-----	150
"Public weigher-----	100

"No fee shall be charged for any office of a political party.

"(d) In lieu of the payment of a filing fee, a candidate may file a nominating petition which may be in multiple parts and must be signed by the qualified voters eligible to vote for the office for which the candidate is running as follows:

"For statewide office, 5,000 signatures.

"For district, county, precinct, or other political subdivisions, equal in number to at least two percent of the number of votes cast in the territory for that party's candidate for governor in the last preceding gubernatorial general election. However, in event shall the number required be more than 500; and if two percent of the votes cast in the territory was less than 25, the number required is the lesser of 25 signatures or 10 percent of the number of votes cast.

"Where a candidate is running in a district, county, or precinct which has been created or the boundaries of which have been changed since the last gubernatorial general election, he may request that the Secretary of State in the case of a district or county office, or the county clerk of the county in which the precinct is situated in the case of a precinct office, make an estimate in advance of the filing deadline of the number of votes cast for that party's candidate for governor within that territory at the last gubernatorial election. Not later than the 15th day after receiving such a request, the officer shall make the estimate and notify the candidate, and also the officer with whom the candidate files his application. The estimate shall be used as the official basis for computing the number of signatures required on a petition. If an advance estimate is not requested, the officer with whom the petition is filed shall make the estimate, whenever necessary, before he acts on the sufficiency of the petition. In every instance,

the candidate may challenge the accuracy of the estimate, and if he is dissatisfied with the final decision of the officer he may appeal the decision to any district court having jurisdiction in the territory involved.

"The following statement shall appear at the head of each page of the petition: 'I know the contents of this petition. I am a qualified voter eligible to vote in the forthcoming primary election of the (fill in name) Party for the office for which (fill in name) is a candidate. I have not signed the petition of a candidate who is running for any office the primary of any other party. I understand that by signing this petition I become ineligible to affiliate with any other party or to participate in the primary elections, conventions, or other party affairs of any other party, including a party which is not holding a primary election, during the voting year in which this election is held, and that I am guilty of a misdemeanor if I attempt to do so.'

"To each part of the petition shall be attached an affidavit of the person who circulated it, stating that he called each signer's attention to the statement and read it to him before the signer affixed his signature to the petition, and further stating that he witnessed the affixing of each signature, that the correct date of signing is shown on the petition, and that to the best of his knowledge and belief each signature is the genuine signature of the person whose name is signed. A petition so verified is prima facie evidence that the signatures thereon are genuine and the persons signing it are registered voters.

"The petition must show the following information with respect to each signer: His address (including his street address if residing in a city, and his rural route address if not residing in a city), his current voter registration certificate number (also showing the county of issuance if the office includes more than one county), and the date of signing. The Secretary of State shall prescribe a form for the petition before the 30th day prior to the filing deadline and provide copies of that form to the state chairman and the county chairmen of each party holding a primary election. However, a candidate may use any other form which complies with the requirements of this section. It is the specific intent of the legislature that there shall be no requirement for the administering of an oath to any person signing a petition under the provisions of this section.

"A petition filed under this section shall be filed with the same officer with whom an application for a place on the ballot for the office being sought is to be filed and must be filed at the same time as such an application.

"(e) The fees paid to the county chairman and received from the state chairman pursuant to the provisions of Section 190 (Article 13.12, Vernon's Texas Election Code), and any contributions made to the county chairman or the county executive committee for the specific purpose of helping defray the costs of the primary elections shall be deposited to the credit of the primary fund referred to in Section 196 (Article 13.18, Vernon's Texas Election Code), and shall be applied to payment of the costs of the primary elections. The county chairman and the committee may also use any other available funds toward defraying costs. The remaining costs incurred shall be borne by the state except as otherwise provided by procedures outlined in the Texas Election Code. Within five days after the regular filing deadline, the chairman of the state executive committee shall forward to the Secretary of State all filing fees for statewide offices collected pursuant to subsection (c) of this section and an itemized listing of such fees. At the same time, the state chairman shall also forward all filing fees for district offices collected pursuant to subsection (c) of this section to the county chairman for each county lying partially or wholly within such district. The amount forwarded to each county chairman shall be equal to the quotient obtained upon dividing the appropriate filing fee by the number of counties in the district of the candidate paying the fee. The Secretary of State shall deposit the fees forwarded to him in a suspense account with the state treasurer.

"(f) In each county in which voting machines or an electronic voting system has been adopted, the county commissioners court shall permit the county-owned voting

machines or voting equipment to be used for the primary elections, including the conduct of absentee voting for the elections, at a charge for use at each election not exceeding \$16 per unit for voting machines adopted under Section 79 (Article 7.14, Vernon's Texas Election Code), and not exceeding \$3 per unit for voting equipment adopted under Section 80 (Article 7.15, Vernon's Texas Election Code); provided, however, that the county commissioners court shall not be required to provide voting machines or equipment for use in any election precinct in which fewer than 100 votes were cast in the preceding first or general primary or runoff primary election. The maximum amount fixed in this subsection includes the lease price for the use of the unit, and also the charge for its preparation and maintenance if the county provides these services. The county is entitled to reimbursement for the cost of transporting the machines or equipment to and from the polling places if the county provides this service. Where voting is by an electronic voting system, the county may not charge for use of county-owned automatic tabulating equipment at the central counting station; but all actual expenditures incidental and necessary to operation of the central counting station in counting the ballots are payable out of the primary fund.

"(g) All expenses of the county clerk in conducting absentee voting in the primary elections, including the employment of additional deputies where necessary, shall be paid by the county. A county is not entitled to reimbursement for any expenditure of county funds in connection with absentee voting or any other services rendered by the county clerk in the primary elections, except for voting machines and/or punch card units used in conducting the absentee voting or any other services for which reimbursement is specifically authorized by law.

"(h) The Secretary of State is authorized to promulgate rules under which compensation is limited to polling places at which voters of more than one election precinct cast their votes, notwithstanding the provisions of Section 10(g) (Article 2.02(g), Vernon's Texas Election Code). The rules for such common polling places shall provide for adequate public notice by the county chairman to the voters in election precincts affected by the application of such rules and shall provide for an adequate number of polling places taking into account all other relevant factors including distances of polling places from parts of the precincts served, estimated voter turn-out, and geographic or other boundaries. However, the Secretary of State may not require that there be less than one polling place for each commissioner's precinct for reimbursement purposes.

"(i) The Secretary of State is authorized to promulgate rules in regard to the maximum number of election clerks who may be compensated for their services at a polling place and the maximum number of other necessary office personnel employed to assist in the performance of the duties placed upon the county chairman, taking into account the number of registered voters in the election precinct or precincts, the number of votes cast in the precinct, county or state in previous elections, the method of voting, and any other relevant factors. The Secretary of State must allow compensation for the presiding judge, alternate judge, and at least one clerk for each precinct. The Secretary of State may allow compensation for clerks and other necessary office personnel employed in excess of the applicable limits set by his rules if he finds that the employment of additional clerks or other office personnel was justified by a good cause. The total compensation paid to the county chairman and the secretary of the county executive committee (where the executive committee has named a secretary) in the performance of the duties placed upon the chairman shall not exceed five percent of the amount actually spent in holding the primary elections for the year; provided, however, that in no case shall the total compensation paid be less than \$300 nor more than \$12,000.

"(j) The Secretary of State is authorized to promulgate any other reasonable rules which will minimize the costs of the primary elections. The Secretary of State shall furnish a copy of all rules promulgated pursuant to this section to each county chairman at least 10 days before the election to which the rules apply.

"(k) The county chairman shall account for the primary fund in the manner provided in Section 196 of this code.

"(l) The Secretary of State shall not approve any expenditure of state funds to any county organization that practices discrimination based on race, sex, age, creed, or national origin. The attorney general shall be specifically responsible for the enforcement of this section.

"(m) In the event a court of competent jurisdiction declares any portion of this section or any other provision of this code relating to the financing of primary elections to be invalid, the Secretary of State shall promulgate reasonable rules for the enforcement of the intent of the legislature, consistent with the court's judgment and the valid portions of the code. Such authority of the Secretary of State shall include authority to promulgate a schedule of filing fees, if necessary, and that schedule shall be substituted for the statutory schedule until the legislature enacts a new schedule."

~~"(1) On or before the second Monday in February preceding each general primary election, the county committee shall carefully estimate the cost of printing the official ballots, renting polling places where same may be found necessary, providing and distributing all necessary poll books, blank stationery and voting booths required, compensation of election officers and clerks, and all other necessary expenses of holding the general primary and second primary in such county. On the second Monday in February, the committee shall meet and apportion such cost in such manner as in their judgment is just and equitable among the various candidates for nomination for district, county, and precinct offices who did not file with their application a supporting petition of voters as provided in Art. 13.08c of this code, except the offices of Justice of the Court of Civil Appeals and member of the State Board of Education. Where a district office covers more than one county, the assessment of such candidate by the county shall be not more than a sum which is the quotient of the amount which he would be assessed if he represented only one county determined by the formula used to assess county candidates, when divided by the number of counties in his district. In making the assessment upon any candidate the committee shall give due consideration to the importance, emolument, and term of office for which the nomination is to be made. The committee may not assess any candidate an amount in excess of four percent of the total compensation payable for the particular term of office (full or partial) which he is seeking. Within 24 hours after adjournment of the meeting, the chairman shall mail to each person against whom an assessment is made a notice stating the amount of the expenses apportioned to him and informing him that on or before the fourth Monday in February he must pay to the chairman the difference between the amount apportioned to him and the amount of the deposit which accompanied the application which he filed with the chairman. No such person's name shall be placed on the ballot unless he complies with these requirements within the prescribed time. The notices shall be sent to the candidates by registered or certified mail, and the chairman shall obtain a receipt for each letter, postmarked by the post office at which the letter is mailed, as evidence of the mailing, and shall preserve the receipts for a period of three months.~~

~~(2) A candidate filing after the date of the aforesaid meeting shall not be required to accompany his application with the deposit provided for in Art. 13.07a of this Code, but shall pay the full amount assessed against him by the County Executive Committee within one week from the date on which his application is filed, provided, however, that where a fixed filing fee is required for an office included in this Section, the amount of the fee must accompany the application.~~

~~(3) It shall be sufficient to meet the requirements of this law to mail by registered or certified letter to the chairman before the deadline herein provided, as shown by the postmark on the letter, a money order, a certified check, or a cashier's check; but it shall not be sufficient to make the payment by any other type of mail unless it is delivered before the deadline.~~

~~(4) A candidate for the State Board of Education shall pay a filing fee of fifty dollars, which shall be prorated equally among the counties comprising the district in which he is a candidate, and the prorated amount shall be paid to each county chairman at the time the candidate files his application for a place on the ballot. (1967)~~

~~(5) Notwithstanding any other provision of this section, an assessment shall not be made against a candidate who has filed with his application a petition of voters as provided in Art. 13.08 of this code.~~

~~(6) In conducting the primary elections, the committee is authorized to utilize volunteer unpaid services of election judges and clerks, to accept gratuities of other services and other things of value, and to use funds derived from contributions, fundraising events, and other lawful sources by way of supplementing the funds derived from assessments levied under this section.~~

~~(7) If after the committee has made the assessments authorized by Subsection (1) of this section, a court of competent jurisdiction declares the assessments to be invalid, the committee may reassess the candidates in an effort to bring the amounts within the court's delineation of permissible limits. In the event of a reassessment, the committee shall fix the date by which the new assessments must be paid, which date shall be at least 10 days after the date of the meeting at which the reassessment is made. Within 24 hours after adjournment of the meeting, the chairman shall give notice, in the manner required for notice of the original assessment, to each candidate who has not paid the original assessment. Within 30 days after the date of the meeting, the county chairman shall refund to each candidate who paid the original assessment the difference between the amount of the original assessment and the new assessment.]~~

Sec. 2. Section 186a, Texas Election Code, as amended (Article 13.08a, Vernon's Texas Election Code) is amended to read as follows:

"186a. State financing [Assessments of candidates in counties having certain populations]

"(a) Each county chairman of each political party in the state which is holding primary elections shall submit to the Secretary of State at least 30 days before the first primary election a sworn itemized estimate of the costs for conducting the first primary election in his county, together with a sworn statement of the filing fees and contributions received by the chairman, for such primary elections to and including the date of such sworn statement. The Secretary of State shall review the estimate and shall notify the chairman of any items which he has disallowed as unauthorized or excessive expenditures. Expenditures may be allowed only for those purposes which are properly payable out of the primary fund under existing law as established by the statutes, court decisions, and administrative rulings of this state. Any other provisions of this code notwithstanding, the Secretary of State shall pay for expenditures, which in his discretion, are reasonably necessary for the proper conduct and supervision of the primary elections under the provisions of this code. The Secretary of State is authorized to set forth guidelines to determine the necessity of expenditures in conducting primary elections. The Secretary of State shall subtract from the approved estimate any balance remaining from previous primary elections in the appropriate primary fund, and any amount of the fees and contributions received by the chairman for the conduct and financing of the primary elections for the particular year, and shall certify to the Comptroller of Public Accounts the net estimated amount which is payable out of the state funds, together with the Secretary of State's calculation of three-fourths of that amount. The comptroller shall forthwith issue a warrant to the chairman for three-fourths of the certified amount.

"(b) In each county in which a second or runoff primary is necessary, within 10 days after the first primary the county chairman shall submit to the Secretary of State a sworn itemized estimate of the costs of the runoff primary. As in the case of the first primary, the Secretary of State shall notify the chairman of items which he disallows, and shall certify to the comptroller the approved estimated amount which is payable out of state funds, together with the Secretary of State's calculation of three-fourths of

that amount; and the comptroller shall issue a warrant to the chairman for three-fourths of the certified amount.

"(c) Within 20 days after the date of the runoff primary, the county chairman shall submit to the Secretary of State a sworn itemized report of the actual costs, filing fees collected and contributions received for the primary election or elections (as the case may be) held by his party in his county. If the actual expenditure for an item exceeded the estimated amount, the chairman shall submit an explanation of the reason for the increased expenditure, and the Secretary of State shall allow the increase if good cause is shown. The Secretary of State shall certify to the comptroller the difference between the total amount payable out of state funds and the amount which has already been transmitted to the chairman. If the total amount of fees and contributions and the payments from the state exceeds the actual expenditures incurred, the chairman shall retain the difference in the primary fund referred to in Section 196 of this code (Article 13.18, Vernon's Texas Election Code). The exact amount of the balance in the primary fund shall be reported to the Secretary of State in the actual expense report provided by this section and said amount shall be a beginning balance on hand for the next ensuing primary conducted by the chairman or his successor. If the primary fund is invested as authorized in Section 196, the beginning balance on hand for the next ensuing primary shall be the amount of the primary fund after termination of the investment.

"(d) Each county chairman shall deposit to the credit of the primary fund all warrants received by him under this section. Expenses properly incurred by or on behalf of the county executive committee for the conduct of the primary elections shall be paid from the primary fund, in the manner authorized by the committee.

"(e) The county chairman is responsible for payment of claims for primary election expenses, and the state is not liable to any claimant for failure of the county chairman to pay a claim. No county chairman shall be personally liable, nor shall a county executive committee be liable for any debts incurred in the administration of the primary but unpaid because the appropriation provided by the legislature was not sufficient to cover the actual expenditures made.

"(f) A county chairman may request that the Secretary of State approve an expenditure for the purposes of the auditing of the expenditures made out of the primary fund; however, the Secretary of State shall not be required to approve such an expenditure. The Secretary of State may require an audit of the primary fund, without such a request, when, in his discretion, he believes a valid purpose will be served by such a procedure.

"(g) The Secretary of State shall prescribe and shall furnish to the county chairmen the forms which they are to use in submitting statements and reports to the Secretary of State.

"(h) Wherever the word 'county chairman' is used in this section, it shall apply to the county chairman or his successor in office, and such county chairman shall not be personally liable except for the misapplication of funds.

"(i) In any case in which the Secretary of State disallows an item of expenditure under subsection (a) or (b) of this section, or refuses to allow an increase under subsection (c) of this section, the county chairman may appeal to the district court of Travis County by filing a petition within 20 days after the date the notification is received from the Secretary of State, and the district court shall allow such expenditures as are properly payable out of the primary fund under existing law. Any item not certified to the Comptroller of Public Accounts within 15 days after its submission to the Secretary of State may be considered disallowed for this purpose.

~~[Candidates for any precinct, county or district office and the office of Congress in counties which have a population of one million (1,000,000) or more, according to the last preceding Federal Census, except candidates for the State Legislature and State Board of Education, shall not be assessed a sum in excess of ten per cent (10%) of the aggregate annual salary provided for any office of two year terms and fifteen per cent (15%) of the aggregate annual salary provided for any office of four year terms, to have~~

their names placed on the ballot in any primary election. Candidates for the State Board of Education shall not be assessed a sum in excess of the amount stated in Section 186 of this Code.

~~Notwithstanding other provisions of law, the county executive committee in any county which has a population of one million (1,000,000) or more, according to the last preceding Federal Census, may require candidates for State Representative to pay an amount not exceeding Five Hundred Dollars (\$500) to have their names placed upon the ballot in a primary election. A candidate for nomination for State Senator shall pay the full amount of One Thousand Dollars (\$1,000) as filing fee for office of State Senator to have his name placed upon the ballot in a primary election at the time he files his application for a place on the ballot. The payment must accompany the application and must be in the form of cash, money order, cashier's check or certified check. The application and payment must be delivered to the proper party chairman or secretary by the deadline for making application for a place on the ballot, and it shall not be sufficient for the application and payment to have been mailed before the deadline unless they are actually delivered by the deadline. After the county executive committee makes the assessments as provided in Section 186 of this Code, it shall refund to each candidate within thirty (30) days thereafter the amount of the payment in excess of the assessment against the candidate.~~

~~Notwithstanding other provisions of law, the county executive committee, in any county which has a population of nine hundred thousand (900,000) to one million (1,000,000), according to the last preceding Federal Census, shall require candidates for State Senator or State Representative to pay the amount of Three Hundred Dollars (\$300) to have their names placed upon the ballot in a primary election.~~

~~Notwithstanding other provisions of law, the county executive committee in any county which has a population of six hundred and fifty thousand (650,000) to nine hundred thousand (900,000), according to the last preceding Federal Census, shall require candidates for State Senator or State Representative to pay the amount of Five Hundred Dollars (\$500) to have their names placed upon the ballot in a primary election; and such payment must accompany the application and must be in the form of cash, money order, cashier's check or certified check which shall in no event be refunded except in case of the death of the applicant before the primary election.~~

~~In any State Representative District consisting of eight (8) and not more than nine (9) counties, the chairmen of the county executive committees shall require candidates for State Representative to pay an amount of Twenty five Dollars (\$25) for each of the counties in said Representative District, to have their names placed upon the ballot in a primary election.]~~

Sec. 3. Section 186b, Texas Election Code, as amended (Article 13.08b, Vernon's Texas Election Code), is amended to read as follows:

"186b. Refund upon death of candidate

"No refund of a filing fee shall be made except to a candidate who dies or is declared ineligible to be a candidate for the office before the date of the first or general primary election, in which case the fee paid by the candidate shall be refunded to the candidate or to his estate, as appropriate. [If before the first primary a candidate dies or is declared ineligible to be a candidate for the office, all fees and assessments paid by the candidate, including the deposit which accompanied his application, shall be refunded to the candidate or to his estate, as the case may be. No refund shall be made upon the death or ineligibility of a nominee or of a candidate in the second primary, and no refund shall be made to a candidate who withdraws or who declines a nomination, with the exception that in the event a candidate who is subject to assessment by the County Executive Committee withdraws before the assessments are made, the committee shall determine the amount which would have been assessed against him if he had remained a candidate, and if the amount of the deposit made by the candidate exceeds that amount, the committee shall refund the difference to him; and with the further exception that a withdrawing, declining, or ineligible candidate and



~~the estate of a deceased candidate shall be entitled to share in the distribution of the surplus in the primary fund the same as if he had not died, withdrawn, declined, or been declared ineligible.]~~

Sec. 4. The Texas Election Code, as amended, is amended by adding a new Section 186c to read as follows:

"186c. Funding

"Funds for the administration of the primary financing provisions of this code shall be supplied from the general revenue fund or any special fund which the legislature may direct by the General Appropriations Act. Said funds shall be appropriated for the 1976 primary elections and for subsequent primary elections thereafter, and shall be an amount payable from the general revenue fund or any special fund which the legislature may direct to pay all necessary expenses of primary elections approved by the Secretary of State under the provisions of this code. The Secretary of State is authorized to expend funds appropriated in the General Appropriations Act for the administration of primary elections for seasonal and part-time help, consumable supplies and materials, travel expenses, professional fees and services, and current and recurring operating expenses in an amount not to exceed \$60,000."

Sec. 5. Subdivision 5 of Section 196, Texas Election Code, as amended (Article 13.18, Vernon's Texas Election Code), is amended to read as follows:

"Subdivision 5. The funds received by the county executive committee from contributions, fees (and assessments) paid by candidates, and expenses paid by the Secretary of State shall constitute the primary fund, and any surplus remaining in the fund after payment of the necessary expenses for holding the primary elections for that year shall be retained in the primary fund, and the balance reported to the Secretary of State as required by Section 186a of this code [distributed pro rata to the candidates not later than the first day of November of the year in which the primaries were held]. The county executive committee is authorized to invest the primary fund by deposit with any federally insured institution; provided, however, that the required length of time of the deposit shall not extend beyond 30 days prior to the next general primary election. [The county chairman shall make or have made a detailed financial report or audit of all moneys, received, expended, and on hand, and such audit or financial statement shall be sworn to by the county chairman as to its accuracy and shall be filed with the county clerk not later than the first day of November of that year. Such audit or financial statement shall be open to public inspection.]

Sec. 6. Subsection (2) (ii) of Section 190a, Texas Election Code, as amended (Article 13.12a, Vernon's Texas Election Code), is amended to read as follows:

"(ii) If the vacancy occurs on or after the fifth day preceding the regular filing deadline and more than thirty days before the day of the general primary election, nomination for the unexpired term shall be made by primary election, and candidates shall have until the end of the twenty-fifth day preceding the day of the general primary in which to file applications for a place on the primary ballot. The applications must be received and filed in the office of the proper chairman before the deadline, and applications mailed but not actually received before the deadline shall not be accepted for filing. Except as otherwise provided herein, the application shall conform to the requirements of Article 13.12 of this Code and shall be accompanied by the filing fee or petition provided for in Article 13.08 of this Code. [A candidate for an office for which a fixed filing fee is prescribed by this Code shall pay the fee within three days after he files his application for a place on the ballot; provided, however, that in every case the payment must be received by the chairman before the deadline for filing applications under this paragraph. A candidate for an office which is subject to assessment by the County Executive Committee shall accompany his application with the deposit required by Art. 13.07a of this Code. The County Executive Committee shall fix the amount of the assessment and the county chairman shall mail to each candidate a statement of the amount assessed against him, and the candidate shall pay the balance of the assessment within five days after the date on which the statement is mailed.] Immediately

following the deadline for filing applications, the state chairman shall certify to the county chairman the names of candidates, if any, who have filed applications with him and paid their filing fee or filed a petition in accordance with this paragraph. Whenever the name of more than one candidate for the same office is to be placed on the ballot pursuant to the provisions of this paragraph, the county chairman shall call a meeting of the primary committee, in time to allow printing of the ballots before commencement of absentee voting in the general primary, and the primary committee shall determine by lot, in open meeting, the order in which the names of the candidates shall be printed on the ballot. If there is not more than one candidate for the same office, the county chairman shall be authorized to make any necessary changes in the ballot as previously made up by the primary committee."

Sec. 7. Subsections (1), (3), (4) and (5) of Section 196a, Texas Election Code, as amended (Article 13.18a, Vernon's Texas Election Code), are amended to read as follows:

"(1) For a district composed of more than one county or part thereof, the county chairman of each county wholly within the district shall be ex officio a member of the District Executive Committee for each such district of which his county is a part. When a part of a county is joined with one or more other counties or parts of counties to form a district ~~[at the meeting of the County Executive Committee provided for in Art. 13.08 of this Code,]~~ the precinct chairman of the election precincts included within such part of the county shall elect one of their number to serve as district committeeman; and a district committeeman shall be selected in this manner for each type of district and for each district for which any part of the county less than the whole county is joined with territory in another county or counties. The district committee thus formed shall elect its own chairman. Whenever a vacancy occurs in a district office and the district committee is empowered to name a nominee or a substitute nominee, or whenever for any other reason it becomes necessary for the district committee to meet and organize, the chairman of the State Executive Committee shall call a meeting of the district committee by giving notice to each member of the time and place where such meeting will be held and of the purpose of the meeting. The state chairman shall designate one member as temporary chairman, who shall call the meeting to order and preside until the committee elects its own chairman. The chairman elected by the committee shall continue to act as chairman during the remainder of that term of office, and shall call any subsequent meetings of the committee which are held during that time.

"(3) For a district composed of only a part of one county, the precinct chairmen of the election precincts included within the district shall constitute the District Executive Committee. ~~[At the meeting of the County Executive Committee provided for in Art. 13.08 of this Code,]~~ The precinct chairmen within the district shall elect one of their number to serve as chairman of the District Executive Committee; and a chairman shall be selected in this manner for each type of district and for each district composed of only a part of the county.

"(4) ~~[Within three days after the aforesaid meeting of the County Executive Committee,]~~ The county chairman shall forward to the state chairman the names of the district committeemen and of the chairman of the district committees within three days after they have been selected ~~[who were selected at the meeting].~~

"(5) ~~[At this same meeting of the county committee,]~~ The precinct chairmen in each commissioners precinct and justice precinct shall elect one of their number to serve as chairman of the precinct executive committee for each respective commissioners precinct and justice precinct. The precinct chairmen of the election precincts within the commissioners precinct or justice precinct shall constitute the precinct committee."

Sec. 8. (a) The following sections of the Texas Election Code are repealed: Section 185a, as amended, Section 186a-1, and Sections 193 and 194, as amended (Articles 13.07a, 13.08a-1, 13.15, and 13.16, Vernon's Texas Election Code).

(b) The following statutes are also repealed: Chapter 2, Acts of the 62nd Legislature, 2nd Called Session, 1972 (Article 13.08c-1, Vernon's Texas Election Code), and Sections 1, 2, and 3, Chapter 542, Acts of the 63rd Legislature, Regular Session, 1973 (Articles 13.08c-2, 13.08c-3, and 13.08c-4, Vernon's Texas Election Code).

Sec. 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

#### COMMITTEE AMENDMENT NO. 2

Amend S.B. 571 by striking all above the enacting clause and substituting in lieu thereof the following:

#### "A BILL TO BE ENTITLED

#### "AN ACT

"relating to the conduct, financing and funding of primary elections; amending the Texas Election Code by amending Section 186, as amended (Article 13.08, Vernon's Texas Election Code), Section 186a, as amended (Article 13.08a, Vernon's Texas Election Code), Section 186b, as amended (Article 13.08b, Vernon's Texas Election Code), Subdivision 5 of Section 196, as amended (Article 13.18, Vernon's Texas Election Code), Subsection (2)(ii) of Section 190a, as amended (Article 13.12a, Vernon's Texas Election Code), and Subsections (1), (3), (4), and (5) of Section 196a, as amended (Article 13.18a, Vernon's Texas Election Code); adding a new Section 186c; repealing Sections 185a, 186a-1, 193, and 194, as amended (Articles 13.07a, 13.08a-1, 13.15, and 13.16, Vernon's Texas Election Code), Chapter 2, Acts of the 62nd Legislature, 2nd Called Session, 1972 (Article 13.08c-1, Vernon's Texas Election Code), and Sections 1, 2, and 3, Chapter 542, Acts of the 63rd Legislature, Regular Session, 1973 (Articles 13.08c-2, 13.08c-3, and 13.08c-4, Vernon's Texas Election Code); and declaring an emergency."

#### AMENDMENT NO. 1

Amend Committee Amendment No. 1 to S.B. 571, Second House Printing, as follows:

(1) Strike lines 15, 16, and 17 on page 24 and substitute the following: "or parts of counties to form a district, at a meeting of the county executive committee on the second Monday in February preceding each general primary election ~~[at the meeting of the county executive committee provided for in Section 186a of this code]~~ the precinct chairmen ~~[chairman]~~ of the election precincts included".

(2) Strike lines 13 and 14 on page 25 and substitute the following: "At the meeting of the county executive committee on the second Monday in February preceding each general primary election ~~[provided for in Section 186a of this code]~~, the precinct chairmen within the".

(3) Strike line 7, page 24, and substitute the following: "Sec. 7. Subsections (1) and (3) of Section 196a,".

(4) Strike Subsections (4) and (5) of Section 196a, beginning with line 19, page 25, and ending with line 3, page 26.

#### AMENDMENT NO. 2

Amend Committee Amendment to S.B. 571 by striking the figure "\$12,000" on line 27, page 9, and substitute therefor the figure "\$8,000".

**AMENDMENT NO. 3**

Amend Committee Amendment No. 1 by placing the word "no" on line 5, page 4 between the words "in" and "event".

The House amendments were read.

Senator Ogg moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, McKinnon, McKnight, Meier, Mengden, Ogg, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Clower, Mauzy and Patman.

Absent-excused: Moore.

**MESSAGE FROM THE GOVERNOR**

The following Message from the Governor was read and was filed with the Secretary of the Senate:

Austin, Texas  
May 26, 1975

TO THE MEMBERS OF THE SIXTY-FOURTH LEGISLATURE, REGULAR SESSION:

Pursuant to the request contained in S.C.R. 90, I am herewith returning H.B. 208 to the Senate for further consideration.

Respectfully submitted,  
DOLPH BRISCOE  
Governor of Texas

**BILL SIGNED**

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bill:

**S.B. 300****HOUSE BILL 1097 ON SECOND READING**

On motion of Senator Meier and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1097**, A bill to be entitled an Act relating to apportionment of the state into representative districts; repealing Chapter 351, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 195a, Vernon's Texas Civil Statutes); repealing Chapters 733 and 808, Acts of the 61st Legislature, Regular Session, 1969

(Articles 195a-1 and 195a-2, Vernon's Texas Civil Statutes); and declaring an emergency.

The bill was read second time.

(President in the Chair)

Pending discussion by Senator Schwartz of the bill, Senator Traeger occupied the chair.

(President in the Chair)

Question - Shall **H.B. 1097** be passed to third reading?

**CONFERENCE COMMITTEE REPORT ON SENATE BILL 595**

Senator Jones submitted the following Conference Committee Report:

Austin, Texas  
May 27, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 595** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

JONES  
MOORE  
KOTHMANN  
FARABEE  
SHERMAN  
On the part of the Senate

SHORT  
BIGHAM  
LANEY  
HUBENAK  
CATES  
On the part of the House

**A BILL TO BE ENTITLED**

**AN ACT**

amending the Texas Seed Law, as amended (Article 93b, Vernon's Texas Civil Statutes), relating to the regulation and labeling of agricultural and vegetable seed; amending Section 2, relating to definitions of terms used in the Act and to the authority of the commissioner of agriculture with respect to agricultural, vegetable, and weed seeds; amending Section 3, relating to label requirements for seed; amending Section

3a, relating to treated seed; amending Subsection (a), Section 4, relating to prohibited acts in regard to sale or offering for sale of agricultural and vegetable seeds, improperly representing seeds to be certified, and labeling seed under variety name but not certified under certain conditions; amending Section 5, relating to exemptions from requirements of the Act; amending Section 6, relating to powers and duties of the commissioner of agriculture; amending Section 7, relating to inspection fees and the manner and time of payment and penalty for late payment; adding a Section 7A, relating to vegetable seed licenses; providing penalties; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Sections 2, 3, and 3a, Texas Seed Law, as amended (Article 93b, Vernon's Texas Civil Statutes), are amended to read as follows:

Section 2. (a) When used in this Act:[]

(1)(a) The term "person" shall include an individual, [a] partnership, corporation, company, society, vendor, or association.

(2)(b) The term "agricultural seeds" shall include the seeds of grass, forage, cereal, and fiber crops and any other kind of seeds commonly recognized within this State as agricultural or field seeds, and mixtures of such seeds.

(3)(c) The term "vegetable seeds" shall include the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in this State.

~~(d) The term "weed seeds" shall include the seeds of all plants generally recognized as weeds within this State, and shall include noxious weed seeds.~~

~~(e) Hybrids. The Commissioner of Agriculture shall prescribe, amend, adopt and publish after public hearing following due public notice, rules and regulations defining a "hybrid" to more nearly conform with that definition acceptable for use in interstate commerce, or to utilize scientific developments, and to prescribe, amend, adopt and publish after public hearing following due public notice such rules and regulations as may be necessary to make effective such definition. Hybrid designations shall be treated as variety names.~~

~~(f) Noxious weed seeds shall be divided into two classes, "primary noxious weed seeds" and "secondary noxious weed seeds" which are defined in (1) and (2) of this subsection. Provided, that the Commissioner of Agriculture may add to or subtract from the list of seeds and may prohibit or establish the rate of occurrence allowed in Section 3(a) (5) of this Act.~~

~~(1) "Primary noxious weed seeds" are the seeds of weeds such as not only reproduce by seed, but also may spread by underground roots or stems, and which, when established, are highly destructive and difficult to control in this State by ordinary good cultural practice.~~

~~"Primary noxious weed seeds" in this State are the seeds of Johnson grass (*Sorghum halepense*), Field bindweed (*Convolvulus arvensis*), Dodder (*Cuscuta* spp.), Curled Dock (*Rumex crispus*), Nutgrass (*Cyperus rotundus*), Blueweed (*Helianthus scaberrimus*), and Canada Thistle (*Carduus arvensis*).~~

~~(2) "Secondary noxious weed seeds" are the seeds of such weeds as are very objectionable in fields, lawns, or gardens of this State, but can be controlled by good cultural practice.~~

~~"Secondary noxious weed seeds" in this State are the seeds of Russian thistle (*Salsola kali*), Bermuda grass (*Cynodon dactylon*), Wild oats (*Avena fatua*), Cheat (*Bromus secalinus*), Wild carrot (*Daucus carota*), Buckhorn (*Plantago lanceolata*), Bracted plantain (*Plantago aristata*), Purple (or silverleaf) nightshade (*Solanum elaeagnifolium*), Wild onion and/or garlic (*Allium vineale*), Darnel (*Lolium temulentum*), Wild mustard (*Brassica kaber*), Goat grass (*Aegilops* spp.), Puneturevine "goat-head" (*Tribulus terrestris*), Downy brome grass (*Bromus tectorum*), Cocklebur (*Xanthium* spp.), and Wild radish (*Raphanus raphanistrum*).~~

(4)(g) The term "labeling" includes all labels, and other written, printed, or graphic representations, in any form whatsoever, accompanying and pertaining to any

seed whether in bulk or in containers, and includes invoices.

~~(5)(4)~~ The term "advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this Act.

~~(6)(4)~~ The term "treated" means given an application of a substance or subjected to a process designed to reduce, control, or repel disease organisms, insects, or other pests which attack seeds or seedlings growing therefrom.

~~(7)~~ The term "public notice" means a description of proposed action or the text of adopted rules or regulations published in three newspapers of general circulation throughout the State for a period of three consecutive weeks.

~~(b)~~ The Commissioner of Agriculture may classify and define types, kinds, classes, genera, species, subspecies, hybrids, and varieties of agricultural, vegetable, and weed seeds for purposes of this Act. After public notice and public hearing, the Commissioner of Agriculture may classify noxious weed seeds and may establish the rate of each allowed, or prohibit the inclusion of any of them, in containers of agricultural or vegetable seed described in Section 3 of this Act. Immediately after any ruling by the Commissioner of Agriculture made under the provisions of this subsection, the Commissioner shall cause public notice of the new rules or the amendments to the existing rules to be published. Copies of any new rules or changes in the existing rules shall be made available to anyone who requests a copy.

Section 3. Each container of agricultural or vegetable seed which is sold, offered for sale, or exposed for sale, within this state for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label ~~[or tag]~~ in the English language, giving the following information:

(a) For Agricultural Seeds.

(1) The name of the kind or the kind and variety for each agricultural seed component present in excess of 5 percent of the whole and the percentage by weight of each: Provided, that if the variety of those kinds generally labeled as to variety as designated in the rules and regulations is not stated, the label shall show the name of the kind and the words, "Variety Not Stated." Hybrids shall be labeled as hybrids.

(2) Lot number or other lot identification.

(3) Origin, if known, of all agricultural seeds. If the origin is unknown, that fact shall be so stated.

(4) Percentage by weight of all weed seeds.

~~(5)~~ ~~(A)~~ The name and number of each ~~[Primary and secondary]~~ noxious weed seed ~~[seeds]~~ will be shown at rate per pound.

~~(B)~~ ~~(A)~~ All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the rules and regulations under this Act.

(6) Percentage by weight of agricultural seeds other than those ~~[required to be]~~ named on the label.

(7) Percentage by weight of inert matter.

(8) For each named agricultural seed (a) percentage of germination as prescribed in the rules and regulations, exclusive of hard seed, (b) percentage of hard seed, if present, and (c) the calendar month and year the test was completed to determine such percentages. Following (a) and (b) the additional statement "total germination and hard seed" may be stated as such, if desired.

(9) Name and address of the person who labeled said seed, or who sells, offers, or exposes said seed for sale within this state.

~~[(10) All fescue, certified or noncertified, must have shown on the tag that the seed contains rye grass, if any, and the amount given in percentage. If no rye grass is found in the sample, the tag shall state "None Found."]~~

~~(10)(4)~~ Net Weight.

(b) For Vegetable Seed in containers weighing one pound or more:

(1) The name of each kind and variety of vegetable seed component present in excess of five percent of the whole and the percentage by weight of each, in order of

~~predominance. [Each bag or container of vegetable seed weighing one pound or more must have written on the container or attached a label showing the following information:]~~

- ~~(2)[(A)]~~ Name and address of the person who labeled said seed.
- ~~(3)[(B)]~~ Kind and variety of seed.
- ~~(4)[(C)]~~ Percentage purity.
- ~~(5)[(D)]~~ Germination in accordance with the rules and regulations.
- ~~(6)[(E)]~~ Date of Test. ~~[, and]~~
- ~~(7)[(F)]~~ If present, name and number of noxious weed seeds per pound.
- ~~(8)~~ Lot number or other lot identification.

~~(c) For Vegetable Seed in containers weighing less than one pound:~~

- ~~(1) Kind and variety of seed;~~
- ~~(2) The calendar month and year of the germination test, or the year for which the seed was packaged;~~

~~(3) Name and address of the person who labeled the seed; and~~

~~(4) For seed with a percentage of germination less than the standard prescribed in the rules and regulations:~~

~~(A) Percentage of germination, in accordance with the rules and regulations, exclusive of hard seed;~~

~~(B) Percentage of hard seed, if present; and~~

~~(C) The words "Below Standard" in a size not smaller than eight-point type.~~

~~(d) The labeling requirements for vegetable seeds are met if the seed is weighed from a properly labeled container in the presence of the purchaser.~~

Section 3a. (1) All seeds named and treated as prescribed ~~[defined]~~ in this Act (for which a separate label may be used) shall be labeled in accordance with rules and regulations prescribed by the Commissioner of Agriculture.

(2) The Commissioner of Agriculture, after public notice, shall hold a public hearing in Austin, Travis County, Texas, concerning any proposed rules and regulations or any amendments to the rules and regulations pertaining to the seeds described in this section.

~~[(3) Notice of such a public hearing shall be published in three or more newspapers of general circulation throughout the entire State for three consecutive weeks prior to the date of the public hearing.]~~

~~(3)[(4)]~~ Immediately following any ruling by the Commissioner of Agriculture made pursuant to the provisions of this section, the Commissioner shall publish the new rules or the amendments to the existing rules in at least three newspapers of general circulation throughout the State for a period of three consecutive weeks. Copies of any new rules or changes in the existing rules shall be made available to anyone who desires a copy.

Sec. 2. Subsection (a), Section 4, Texas Seed Law, as amended (Article 93b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) It is unlawful for any person to sell, offer for sale, expose for sale or ~~to~~ transport for sale any agricultural and vegetable seeds within this state:

(1) Unless the test to determine the percentage of germination required by Section 3 shall have been completed within a nine month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation; except that the Commissioner of Agriculture may prescribe, amend, adopt and publish after public hearing following ~~[due]~~ public notice rules and regulations to designate a longer period for any kind of agricultural or vegetable seed which is packaged in such container materials and under such other conditions prescribed by the Commissioner of Agriculture as he finds will, during such longer period, maintain the viability of said seed under ordinary conditions of handling.

(2) Not labeled in accordance with the provisions of this Act, or having a false or misleading labeling.



(3) Pertaining to which there has been a false or misleading advertisement.

(4) Containing ~~[Any agricultural seeds containing primary]~~ noxious weed seeds in excess of the limitations per pound subject to tolerances and methods of determination prescribed in the rules and regulations under this Act.

(5) If any labeling, advertising, or other representation subject to this Act represents the seed to be certified seed of any class unless:

(A) A seed certifying agency has determined that the seed conforms to standards of purity and identity as to kind, species, subspecies (if appropriate), or variety in accordance with rules and regulations of the certifying agency; and

(B) The seed bears an official label issued for the seed by a seed certifying agency, certifying that the seed is of a specific class, kind, species, subspecies (if appropriate), or variety.

(6) Labeled with a variety name but not certified by an official seed certifying agency, when it is a variety required by federal law to be sold only as a class of certified seed (except that seed from a certified lot may be labeled as to variety name when used in a mixture by, or with approval of, the owner of the variety).

Sec. 3. Sections 5, 6, and 7, Texas Seed Law, as amended (Article 93b, Vernon's Texas Civil Statutes), are amended to read as follows:

Section 5. (a) The provisions of Sections 2 and 3 do not apply:

(1) To seed or grain not intended for sowing purposes.

(2) To seed in storage for cleaning and processing, if the invoice, labeling, or other records pertaining to the seed bear the phrase "seed for processing."

(3) To seed being transported to, ~~in,~~ or consigned to, a seed cleaning or processing establishment for cleaning or processing, if the invoice or labeling accompanying the seed bears the phrase "seed for processing."[-] Provided, that any labeling or other representation which may be made with respect to the unclean seed shall be subject to this Act.

(b) No person shall be subject to the penalties of this Act, for having sold, offered, or exposed for sale in this State any agricultural or vegetable seeds[-] which were incorrectly labeled or represented as to kind, variety, type, treatment, or origin, which seeds cannot be identified by examination ~~[thereof]~~, unless he has failed to obtain an invoice or grower's declaration giving kind, or kind and variety, or kind and type, treatment, and origin, if required.

(c) Providing that nothing in this Act shall be construed as preventing one farmer from selling to another farmer such seed grown on his own farm, as covered by the provisions of this Act, without having said seed tested and labeled as provided for herein, when such seed is not advertised in the public communications media ~~[press]~~ outside ~~[of]~~ the vendor's home county, is not sold, offered for sale, or exposed for sale by an individual or organization for a farmer, and is not shipped by common carrier.

Section 6. (a) The duty of enforcing this Act and carrying out its provisions and requirements shall be vested in the Commissioner of Agriculture. It shall be the duty of such officer, who may act through his authorized agents:

(1) To sample, inspect, make analysis of, and test agricultural and vegetable seed ~~[seeds]~~ transported, sold, offered, or exposed for sale within this State for sowing purposes, at such time and place and to such extent as he may deem necessary to determine whether said agricultural or vegetable seed is ~~[seeds are]~~ in compliance with the provisions of this Act, and to notify promptly the person who transported, sold, offered, or exposed the seed for sale of any violation.

(2) To prescribe and, after public hearing following ~~[due]~~ public notice, to adopt rules and regulations governing the methods of sampling, inspecting, analysis, tests and examination of agricultural and vegetable seed, and the tolerances to be followed in the administration of this Act, which shall be in general accord with officially prescribed practice in interstate commerce, to provide definition of terms, and such other rules and regulations as may be necessary to secure the efficient enforcement of this Act.

(b) Further, for the purpose of carrying out the provisions of this Act, the Commissioner of Agriculture individually or through his authorized agents is authorized:

(1) To enter upon any public or private premises during regular business hours in order to have access to seeds and the records from personnel authorized by management connected therewith subject to the Act and the rules and regulations thereunder, and any truck or other conveyer by land, water, or air at any time when the conveyer is accessible, for the same purpose.

(2) To issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of agricultural or vegetable seed which the Commissioner of Agriculture has reason to believe is in violation of any of the provisions of this Act which shall prohibit further sale of such seed until such officer has evidence that the law has been complied with. Provided, that in respect to seed [seeds] which has [have] been denied sale as provided in this paragraph, the owner or custodian of such seed [seeds] shall have the right to appeal from such order to a court of competent jurisdiction where the seed is [seeds are] found, praying for a judgment as to the justification of said order and for the discharge of such seed from the order prohibiting the sale in accordance with the findings of the court; and provided further, that the provisions of this paragraph shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other sections of this Act.

(3) To establish and maintain or make provision for seed testing facilities, to employ qualified persons, and to incur such expenses as may be necessary to comply with these provisions.

(4) To make or provide for making purity and germination tests of seed [seeds] for farmers and dealers on request; to prescribe rules and regulations governing such testing; and to ~~may~~ fix and collect charges for the tests made.

(5) To cooperate with the United States Department of Agriculture in seed law enforcement.

Section 7. (a) For the purpose of administering the Texas Seed Act, any person who sells, offers for sale or otherwise distributes for sale any agricultural seed within this state for planting purposes shall pay to the Commissioner of Agriculture an inspection fee to be set by the Commissioner of Agriculture. Said inspection fee shall be deposited in the State Treasury by the Commissioner, and placed by the State Treasurer in the special Department of Agriculture Fund.

(b) The procedure for paying the ~~for~~ inspection fee on agricultural seed shall be either by the use of the ~~[Tax Tag (which shall be known as the)]~~ Texas Tested Seed Label~~] or by means of the reporting system but shall not be by means of both such procedures, and shall in addition to such rules and regulations which the Commissioner of Agriculture is herewith authorized to issue, be in compliance with all the provisions of this Act.~~

(c) When the inspection fee is to be paid by use of the ~~[Tax Tag ()]~~ Texas Tested Seed Label~~] the person who distributes, sells, offers for sale or exposes for sale agricultural seed for planting purposes shall purchase said Texas Tested Seed Label from the Commissioner of Agriculture [at a cost of not to exceed two cents (2) for each one hundred pounds or fraction thereof] and shall attach the label [said tag] to each container of seed sold, offered for sale or otherwise distributed for sale for planting purposes within this state. The Commissioner of Agriculture is hereby empowered to promulgate rules and regulations prescribing the form of the labels [said tags,] and the manner of showing ~~[to show]~~ the analysis information required in Section 3 of this Act.~~

(d) When the inspection fee is paid by means of the reporting system, the Commissioner of Agriculture shall, after application for a permit, issue a permit bearing an assigned number to any person who sells, offers or exposes for sale, or otherwise distributes for sale agricultural seed ~~[said fee shall be four cents (4) for each 100 pounds of agricultural seed offered for sale, exposed for sale, or otherwise distributed for sale]~~ for planting purposes within this state. The Commissioner of

Agriculture is authorized at his discretion and under such rules and regulations as he may promulgate, to prescribe and furnish such forms and to require the filing of [such] reports ~~[and shall issue permits bearing a number assigned by the Commissioner on application therefor to any person who sells, offers for sale, exposes or otherwise distributes for sale any agricultural seed]~~. The inspection fee shall be due on the total pounds sold or distributed ~~[of first sales or distribution by the originating permittee, except that in cases where a Texas seedsman purchases or receives agricultural seed for planting purposes from a seedsman located outside the State of Texas, the inspection fee may be paid by either seedsman, but final responsibility rests with the Texas seedsman. In cases where a Texas seedsman under the reporting system purchases or receives agricultural seed from another Texas seedsman also using the reporting system, the fee may be paid by either seedsman, provided an agreement in writing specifying this option is on file with each seedsman. In such cases the invoice covering such transaction shall indicate which seedsman is responsible for reporting and paying the inspection fees.]~~ In addition to all other provisions of this Act, each person who is issued a permit to sell, offer for sale or otherwise distribute agricultural seed and pay the inspection fee in accordance with the reporting system shall:

(1) Maintain and furnish such records as the Commissioner of Agriculture may require to reflect accurately the total pounds of agricultural seed handled, ~~[and the portion of such pounds that is]~~ sold, offered for sale or distributed for sale as planting seed ~~[and subject to the inspection fee of four cents (4) per 100 pounds]~~. The Commissioner of Agriculture or his duly authorized agents shall have permission to examine the records of the permittee during normal working hours.

(2) File with the Commissioner of Agriculture within thirty days after the close of each quarter year ending the last day of November, February, May and August, sworn reports covering the total pounds of all ~~[first]~~ sales of agricultural seed subject to an inspection fee ~~[seeds]~~ sold during the preceding quarter. An inspection fee penalty of 10 percent of the amount due or \$10, whichever is greater, is incurred if a report is not submitted when due and prior written approval for a delayed report has not been obtained. ~~[A penalty of ten per cent (10%) of any inspection fee which is not paid within the time allowed shall be added to the inspection fee.]~~

(3) When located outside ~~[of]~~ the State of Texas and when distributing agricultural seed in the State of Texas, shall maintain in the State of Texas the records and information required by Subsection (d), Section 7, ~~[Section 7(d)]~~ of this Act or pay all costs incurred in the auditing of records at a location outside ~~[of]~~ the state. The Commissioner of Agriculture is authorized and directed to revoke the permit of any person who fails to comply with this requirement. Itemized statements of costs incurred in any such audits shall be furnished the permittee by the Commissioner promptly on completion of any such audit, and the permittee ~~[he]~~ must pay the costs ~~[same]~~ within thirty (30) days from the date of the statement.

(4) Affix to each container of agricultural seed sold, offered for sale, or otherwise distributed and to the invoice of each lot of agricultural seed sold, offered for sale, or otherwise distributed in bulk, a plainly printed or written statement giving the information required in Section 3 of this Act.

Any failure of a permittee to observe these regulations, file required reports, or pay fees required shall be grounds for cancellation of the permit.

~~[(e) Any person who sells, offers for sale, exposes for sale or otherwise distributes seed in bulk must use the reporting system and all labeling information required in Section 3 of this Act must be shown on the invoice or such person must furnish to the purchaser one (1) Texas Tested Seed Label with the analysis information required in Section (3) printed thereon for each one hundred (100) pounds and/or fraction thereof sold.]~~

~~[(f) The [In no case shall the inspection fee be paid more than once on any quantity of seed either by the Tax Tag or reporting system, except that the] inspection fee must be paid [once during the first and once] during each [any subsequent]~~

germination period ~~[as required in Section 4(e) (1) of this Act]~~ that said seed remains offered or exposed for sale. For any seed on which the germination test has expired, payment of the inspection fee is the responsibility of the custodian of said seed.

(f) Any person who sells, offers or exposes for sale, or otherwise distributes seed in bulk when inspection fee payment is by means other than the reporting system must furnish to the purchaser one Texas Tested Seed Label printed with the analysis information required in Section 3 of this Act for each 100 pounds or fraction of 100 pounds sold.

(g) The Commissioner of Agriculture is authorized to prescribe, amend, adopt, and publish after public hearing following ~~due~~ public notice, such rules and regulations as are necessary to carry out and make effective the provisions of this section.

Sec. 4. The Texas Seed Law, as amended (Article 93b, Vernon's Texas Civil Statutes), is amended by adding Section 7A to read as follows:

Section 7A. (a) After September 1, 1975, no person may sell, offer or expose for sale, or otherwise distribute for sale in this state any vegetable seed for planting purposes unless the person has a valid current vegetable seed license issued by the Commissioner of Agriculture.

(b) After public notice and a public hearing, the Commissioner of Agriculture may determine from time to time the license fee required of an applicant for an original or renewal vegetable seed license. Application for a license must be made on forms prescribed by the Commissioner. A vegetable seed license expires on August 31 of each year.

(c) No license is required of a person who sells, offers or exposes for sale, or otherwise distributes for sale vegetable seed in containers bearing the name and address of a person licensed under this section.

Sec. 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### BILL SIGNED

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bill:

#### H.B. 643

#### SENATE RULE 103 SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 103 was suspended in order that the Jurisprudence Committee might consider **H.B. 1324** today.

#### SENATE RESOLUTION 632

By unanimous consent, Senator Adams offered the following resolution:

WHEREAS, It is always a pleasure during a legislative session to pause in the midst of tense deliberations and strenuous work periods to honor a colleague in the Senate on the occasion of his birthday; and

WHEREAS, Many members of this body, however, are not so fortunate as to have their birthdays fall within the 140 days of the regular session, and thus miss the camaraderie, the good-natured barbs of fellow senators as another year takes its toll in more, or less, gray hairs; and

WHEREAS, Senator A. R. "Babe" Schwartz, fourth in seniority in the Texas Senate, will celebrate his 49th Birthday this summer on July 17, and though, of course, he will have his lovely wife, Marilyn, and his children--Robert, Richard, Johnny, and Tommy--to join in the festivities on that occasion, he will once again miss the spirited congratulations of his fellow senators and it is appropriate that he be extended best wishes in advance of his birthday to compensate for the fact that he cannot celebrate with his Senate colleagues on the official date; now, therefore, be it

RESOLVED, That the Senate of the 64th Legislature of the State of Texas hereby congratulate Senator A. R. "Babe" Schwartz on the celebration of his 49th birthday on July 17, 1975; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for him under the Seal of the Senate as a symbol of the esteem of his colleagues and to serve as our birthday card to him for his birthday celebration this summer.

The resolution was read.

On motion of Senator Meier and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Adams, the resolution was adopted.

#### MESSAGE FROM THE HOUSE

Hall of the House of Representatives  
Austin, Texas, May 27, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

**S.C.R. 30**, That the Board of Regents of the University of Texas System on behalf of the University of Texas at Dallas, acquire by donation and operate the Callier Center for Communication Disorders.

**S.C.R. 40**, Relating to the continuing study of programs for the handicapped.

**S.C.R. 54**, Granting Vince J. Luza, Anthony Luza, Tony Schoeneman, and James Kalinec the right to sue the State of Texas.

**S.C.R. 56**, Granting Judith G. Malkin permission to bring suit against the State of Texas for fee owed her by Southwest Texas State University.

**S.C.R. 59**, Commending Angus L. McDonald on his retirement from the State Board of Insurance.

**S.C.R. 62**, Relates to granting Glyn Larue Swindell permission to sue the State of Texas.

**S.C.R. 63**, Granting George Chandler permission to sue the state.

**S.C.R. 66**, Honoring Gerald W. Greathouse on his contribution to the people of Texas and to the insurance industry of this State.

**S.C.R. 67**, Granting Odo J. Riedel and Lucille Riedel permission to sue the State of Texas.

**S.C.R. 82**, Memorializing Congress of the United States, requesting that the Congress amend and revise the Federal Water Pollution Control Act Amendment of 1972 as may be required to insure that the Environmental Protection Agency and the U.S. Corps of Engineers comply with the intent of Congress, etc.

**S.C.R. 83**, Granting the Pope Company, Inc. permission to sue the State.

**S.C.R. 85**, Requesting that the State Board of Control cooperate with the City of Austin in the development of plans and specifications for the beautification of Congress Avenue along the north side of Eleventh Street when such plans involve State owned real property, and authorize the City of Austin to proceed with the implementation of those plans and specifications if, and when, the Board is satisfied that the proposed beautification will be in keeping with the aesthetic tone created by the existing Capitol structures and that those structures will not be harmed or damaged in any way.

The House concurred in Senate amendments to **H.B. 275** by non-record vote.

The House concurred in Senate amendments to **H.B. 1538** by record vote of 126 yeas, 4 nays, 5 present-not voting.

**H.C.R. 116**, Requesting permission to sue the State by Jefferson County, Texas.

**H.C.R. 136**, Granting Cal-Cut Pipe and Supply Company permission to sue the state.

**H.C.R. 144**, Granting Edwin E. Wheat permission to sue the State of Texas.

**H.C.R. 146**, Granting Guadalupe Alexander permission to sue the State of Texas.

**H.C.R. 118**, Granting W. L. Moody & Company, Bankers, Inc., et al., permission to sue the state.

The House refused to concur in Senate amendments to House Bill 819 and has requested the appointment of a Conference Committee to consider the differences between the two Houses. (with instructions) House Conferees: Olson, Chairman; Wilson, Boone, Geiger and Fox.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill 839. House Conferees: Henderson, Chairman; Uher, Fox, Polumbo and Smith.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill 204. House Conferees: Earle, Chairman; Ezzell, Nabors, Von Dohlen and Miller.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill 761. House Conferees: Nugent, Finney, Mankins, Rucker and Bailey.

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

#### HOUSE BILL 1097 ON SECOND READING

The Senate resumed consideration of the pending business, the same being **H.B. 1097**.

Question - Shall **H.B. 1097** be passed to third reading?

(Senator Aikin in the Chair)

#### HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House, were read the first time and referred to the Committees indicated:

**H.B. 668**, To Committee on Human Resources.  
**H.B. 546**, To Committee on Finance.  
**H.B. 1717**, To Committee on Natural Resources.  
**H.B. 1217**, To Committee on State Affairs.  
**H.B. 1065**, To Committee on Intergovernmental Relations.  
**H.B. 1595**, To Committee on Natural Resources.  
**H.B. 671**, To Committee on Jurisprudence.  
**H.B. 1907**, To Committee on Jurisprudence.  
**H.B. 1334**, To Committee on Human Resources.  
**H.B. 2061**, To Committee on Education.  
**H.B. 2197**, To Committee on Intergovernmental Relations.  
**H.B. 1816**, To Committee on Jurisprudence.  
**H.B. 1945**, To Committee on Intergovernmental Relations.  
**H.B. 2065**, To Committee on Intergovernmental Relations.  
**H.B. 1481**, To Committee on Human Resources.  
**H.B. 614**, To Committee on Natural Resources.  
**H.B. 2076**, To Committee on Human Resources.  
**H.B. 1353**, To Committee on Intergovernmental Relations.  
**H.B. 2210**, To Committee on Intergovernmental Relations.  
**H.B. 2214**, To Committee on Economic Development.  
**H.B. 165**, To Committee on State Affairs.  
**H.B. 569**, To Committee on Human Resources.  
**H.B. 2178**, To Committee on Intergovernmental Relations.  
**H.B. 1550**, To Committee on Human Resources.  
**H.B. 2153**, To Committee on Jurisprudence.  
**H.B. 873**, To Committee on Jurisprudence.  
**H.B. 2182**, To Committee on Intergovernmental Relations.  
**H.B. 1488**, To Committee on Intergovernmental Relations.  
**H.B. 1746**, To Committee on Education.  
**H.B. 1778**, To Committee on Intergovernmental Relations.  
**H.B. 1779**, To Committee on Intergovernmental Relations.  
**H.B. 405**, To Committee on Intergovernmental Relations.

H.B. 1308, To Committee on Human Resources.  
H.B. 1489, To Committee on Natural Resources.  
H.B. 1408, To Committee on Administration.  
H.B. 2245, To Committee on Intergovernmental Relations.  
H.J.R. 99, To Committee on Natural Resources.  
H.C.R. 150, To Committee on Administration.  
H.C.R. 149, To Committee on Administration.  
H.C.R. 116, To Committee on Administration.  
H.C.R. 136, To Committee on Administration.  
H.C.R. 144, To Committee on Administration.  
H.C.R. 146, To Committee on Administration.  
H.C.R. 118, To Committee on Administration.

#### NOTICES OF INTENT

The following Notices of Intent were filed with the Secretary of the Senate:

Wednesday, May 28, 1975

H.B. 4 - Senator Meier  
H.B. 42 - Senator Mauzy (Third reading)  
H.B. 82 - Senator Mauzy (Third reading)  
H.B. 109 - Senator Mauzy  
H.B. 188 - Senator McKnight (Third reading)  
H.B. 247 - Senator Brooks  
H.B. 261 - Senator Mengden  
H.B. 313 - Senator Gammage  
C.S.H.B. 431 - Senator Brooks  
H.B. 491 - Senator Mauzy  
H.B. 519 - Senator Mauzy  
H.B. 570 - Senator Doggett  
H.B. 769 - Senator Patman  
H.B. 820 - Senator Meier  
H.B. 836 - Senator Ogg (Third reading)  
H.B. 1089 - Senator Traeger  
H.B. 1097 - Senator Meier (Unfinished business)  
C.S.H.B. 1126 - Senator Mauzy  
C.S.H.B. 1130 - Senator Schwartz  
H.B. 1455 - Senator Gammage  
H.B. 1484 - Senator Schwartz  
H.B. 1570 - Senator Ogg  
H.B. 1575 - Senator Ogg  
H.B. 2003 - Senator Brooks  
H.B. 2136 - Senator Snelson  
C.S.H.B. 2175 - Senator Snelson  
H.B. 2186 - Senator Patman  
H.B. 2220 - Senator Meier  
H.B. 2223 - Senator Patman  
C.S.S.B. 108 - Senator Schwartz  
C.S.S.B. 116 - Senator Mengden  
C.S.S.B. 117 - Senator Mengden  
C.S.S.B. 162 - Senator Harris  
S.B. 196 - Senator Santiesteban (Third reading)  
S.B. 272 - Senator Doggett  
S.B. 317 - Senator Mengden



S.B. 418 - Senator Ogg (Third reading)  
S.B. 430 - Senator Mengden  
C.S.S.B. 448 - Senator Mauzy  
C.S.S.B. 449 - Senator Mauzy  
S.B. 725 - Senator Patman  
S.B. 779 - Senator Mengden  
C.S.S.B. 781 - Senator Mengden  
S.B. 784 - Senator Harris  
S.B. 847 - Senator Hance  
S.B. 879 - Senator Patman  
S.B. 884 - Senator Hance  
S.B. 919 - Senator Ogg  
C.S.S.B. 945 - Senator Lombardino  
S.B. 973 - Senator Santiesteban  
S.B. 974 - Senator Santiesteban  
S.B. 976 - Senator Santiesteban  
S.B. 984 - Senator Harris  
S.B. 987 - Senator Ogg  
C.S.S.B. 1022 - Senator Mengden  
C.S.S.B. 1023 - Senator Mengden  
S.B. 1050 - Senator Patman  
S.B. 1094 - Senator Jones  
S.B. 1097 - Senator Lombardino  
C.S.S.B. 1108 - Senator Hance

#### MEMORIAL RESOLUTIONS

S.R. 621 - By Senator Ogg: Memorial resolution for William F. Walsh.

S.R. 622 - By Senator McKnight: Memorial resolution for N. P. Powell.

S.R. 623 - By Senator Brooks: Memorial resolution for Police Captain Leon C. Colley.

S.R. 624 - By Senators Aikin, Schwartz, Adams and McKnight: Memorial resolution for Paul Ernest Moore.

S.R. 625 - By Senator Snelson: Memorial resolution for Alfred J. Petmecky.

S.R. 626 - By Senator Snelson: Memorial resolution for Ray Cecil Kayser.

S.R. 627 - By Senator Snelson: Memorial resolution for Emmett L. Hunter.

S.R. 628 - By Senator Snelson: Memorial resolution for Mrs. Christian Mathisen.

S.R. 630 - By Senator Adams: Memorial resolution for The Honorable William Henry Hanna.

#### CONGRATULATORY RESOLUTIONS

S.C.R. 91 - By Senator Jones: Expressing appreciation to the Texas Academy of Family Physicians and the Texas Medical Association.